## REMARKS

The applicants have carefully considered the Office action dated July 15, 2011. By way of this response, claims 1, 4, 6, 70, 72, 75, 77, 80, and 85 have been amended. All pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

**Rejections under 35 U.S.C. § 101**

Claims 1, 2, 4, and 70-80 were rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Specifically, claims 1, 2, 4, and 76-80 were rejected as being directed to software per se. Independent claim 1 recites a processor and, thus, cannot possibly be read as software per se. Accordingly, withdrawal of the § 101 rejections of claim 1 and claims 2, 4, and 76-80 depending therefrom is respectfully requested.

Claim 70 was rejected as allegedly directed to non-statutory subject matter as allegedly reading on propagating signals. The applicants respectfully traverse this rejection. This rejection is in error in law and in fact. A ***tangible*** article of manufacture storing machine-accessible instructions is statutory. Signals are ***not tangible*** and, thus, claim 70 cannot reasonably be interpreted to cover signals. The Federal Circuit made clear that ***tangibility*** is the touchstone of statutory subject matter in the article of manufacture context in In re Nuijten, 500 F.3d 1346, 1356 (Fed. Cir. 2007). In that case, the Federal Circuit states:

> These definitions [of statutory subject matter] address "articles" of "manufacture" as being ***tangible*** articles or commodities. A transient electric or electromagnetic transmission does ***not*** fit within that definition [of ***tangible*** article of manufacture].

(emphasis added). Accordingly, the Federal Circuit ruling that held signals non-statutory did so on the basis that ***signals were not tangible***. Since claim 70 expressly excludes the

non-tangible, claim 70, by definition of the Federal Circuit, likewise excludes signals. Therefore, claim 70 and claims 71-75 depending therefrom are statutory and withdrawal of the rejections of claims 70-75 under 35 U.S.C. §101 is respectfully requested.

**Rejections under 35 U.S.C. § 112**

Claims 75, 80, and 85 were rejected as failing to comply with the written description requirement of 35 U.S.C. § 112. Specifically, the Office action alleged that the originally filed disclosure fails to support the portion of claim 75 reciting: "determining a rotation rate . . . by dividing the total number of times that the webpage was requested by the number of times that the first content object was included in the content files" and "determining the number of times that the first content object has been displayed to visits by multiplying the estimate . . . by the rotation rate." The applicants respectfully traverse these rejections.

Paragraph [0034] of the originally filed disclosure states that a "traffic analysis system 210 estimates the global traffic to every significant Web site on the Internet 100." (emphasis added). This data is used for "computing the number of advertising impressions given an estimate of the frequency of rotation on that page." Paragraph [0034] further states that "[t]he goal is to accurately measure the number of page views by individual users, and therefore the number of advertising impressions." (emphasis added).

Paragraph [0043] states that a "probe map assists the advertisement sampling system 220 with the measurement of the rotation of advertisements on individual Web sites." Paragraph [0044] states that the "data received from each URL in the probe map is used to calculate the frequency with which each advertisement is shown in a particular Web site." (emphasis added).

Paragraph [0066] states that "[f]requency is computed by dividing the scaled observations by the scaled fetches for each advertisement in each Web site 410, 420." (emphasis added). Paragraph [0053] states that the "present invention calculates the advertising impressions, I, using the formula I = T x R, where T is the traffic going to the site, and R is the rotation of advertisements on that site." (emphasis added).

As illustrated in the foregoing paragraphs, the originally filed disclosure supports the limitations of claim 75. As such, withdrawal of the rejections of claim 75 and claims 80 and 85 depending therefrom is respectfully requested.

Claim 4 was rejected as being indefinite under 35 U.S.C. § 112. Claim 4 has been clarified and, as such, withdrawal of the rejection of claim 4 is respectfully requested.

**Rejections under 35 U.S.C. § 102**

Claims 1, 2, 6, 70-72, 74, 76, 77, 79, 81, 82, and 84 were rejected under 35 U.S.C. § 102(e) as being anticipated by Gupta (U.S. Patent No. 6,487,538). The applicants respectfully traverse these rejections.

Independent claim 1 recites a statistical summarization system to estimate a number of times that a first content object has been displayed to visitors of a webpage based on (1) a number of times that the first content object was included in content files received in response to requests, (2) a total number of times that the webpage was requested, and (3) an estimate of a number of times that the webpage has been accessed.

Gupta fails to teach or suggest the system of claim 1. For example, Gupta does not teach or suggest a system to estimate a number of times that a first content object has been displayed to visitors of a webpage. Indeed, the methods described in Gupta have no need to estimate the number of times that a first content object has been displayed to

visitors of a webpage, as recited in claim 1, because Gupta retrieves the number of times that an advertisement was displayed at a client directly from a log stored at that client.

More specifically, Gupta describes a method to verify a number of advertisements that are displayed at a client. (See Column 17, lines 13-14). Gupta describes cross-checking a URL request from a particular client at a particular time with a transmission of an advertisement from a web server to the particular client at the particular time. (See Column 17, lines 14-19). By cross-checking this information, the method described in Gupta determines whether an advertisement was displayed at that client. (See Column 17, lines 19-24). Thus, the method described in Gupta retrieves the number of times an advertisement was displayed at a client without any need to estimate the number of times the advertisement has been displayed.

Gupta describes obtaining hit-count information for different sets of proxies. (See Column 17, lines 31-33). Each hit corresponds to a content-provider providing a page to a proxy that inserts a particular advertisement for a client. (See Column 17, lines 33-35). Gupta then describes cross-referencing these hit counts to check whether each proxy is behaving within the industry norm for that particular advertisement (See Column 17, lines 35-38). To perform this cross-referencing, Gupta describes a sampling scheme in which a proxy is informed that no advertisements are available or that pages are non-cacheable for a subset of page views. (See Column 17, lines 40-43). The advertisement hit rate (i.e., the number of times the advertisement is displayed at a client) is obtained and compared to hit rates of other proxies to determine if advertising rates are likely. (See Column 17, lines 43-36). Thus, the sampling scheme described in Gupta retrieves the number of times an advertisement is displayed at a client. The sampling scheme

described in Gupta has no need to estimate the number of times an advertisement is displayed to a client.

The method described in Gupta compares the number of times a URL is requested with the number of times an advertisement is displayed to determine if advertising rates being charged are appropriate. The method of Gupta retrieves this information from logs stored in clients. Accordingly, because no part of Gupta has a need to estimate a number of times that a first content object has been displayed to visitors of a webpage, Gupta does not teach or suggest the method of claim 1. Accordingly, claim 1 and all claims depending therefrom are allowable.

Independent claim 6 is also allowable. Claim 6 recites a method including estimating a number of times that a first content object has been displayed to visitors of a webpage based on (1) a number of times that the first content object was included in content files received in response to requests, (2) a total number of times that the webpage was requested, and (3) an estimate of a number of times that the webpage has been accessed. Gupta fails to teach or suggest such a method. Accordingly, claim 6 and all claims depending therefrom are allowable.

Independent claim 70 is also allowable. Claim 70 recites instructions that, when executed, cause a machine to estimate a number of times that a first content object has been displayed to visitors of a webpage based on (1) a number of times that the first content object was included in content files received in response to requests, (2) a total number of times that the webpage was requested, and (3) an estimate of a number of times that the webpage has been accessed. Gupta fails to teach or suggest such instructions. Accordingly, claim 70 and all claims depending therefrom are allowable.

Before closing, the applicants note that at least the following amendments are either broadening or clarifying and, thus, not necessary for patentability:

1. The replacement of "the prevalence of" with "a number of times" in claims 1 and 6;
2. The replacement of "on" with "has been displayed via" in claims 1 and 6;
3. The addition of "received in response to the requests" in claims 1, 6, 70, 75, 80, and 85;
4. The addition of "in" in claims 1, 6, and 70;
5. The addition of "(1)," "(2)," and "(3)" in claims 1, 6, and 70;
6. The replacement of "wherein the" with "further comprising a" and the addition of "that" in claim 4;
7. The removal of "receiving an estimate of a number of times that a webpage has been accessed;" and "determining a total number of times that the webpage has been requested; and" in claim 6;
8. The replacements of "the" with "a" and "an" in claims 6 and 70;
9. The addition of "and" in claims 6, 70, 75, 80, and 85;
10. The removal of "receive an estimate of a number of times that a webpage has been accessed;" "determine a total number of times that the webpage has been requested; and" and "and, in response, receiving content files" in claim 70;
11. The removal of "the" in claim 70;
12. The addition of "to be" in claim 72;
13. The addition of "the" and "cause the machine to," in claim 75;
14. The addition of "repeatedly" in claims 75, 80, and 85;

15. The replacement of "display" with "displayed" and of "visits" with "visitors" in claims 75, 80, and 85;

16. The replacement of "is" with "comprises" in claim 77;

17. The replacement of "estimates" with "is to estimate" in claim 80; and

18. The addition of "the" in claim 80.

The above noted amendments are either broadening, or are merely clarifying in that the amended claims are intended to state the same thing as the claim was intended to state prior to amendment (i.e., to have the same scope both before and after the amendments). Consequently, these broadening or clarifying amendments do not give rise to prosecution history estoppel or limit the scope of equivalents of the claims under the doctrine of equivalents.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the right to challenge such statements in the future.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Please continue to direct all correspondence for this matter to the address associated with USPTO Customer Number 83417.

Respectfully submitted,

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 South Wacker Drive
Suite 2100

Chicago, Illinois 60606
(312) 580-1020

By: **/ Michael W. Zimmerman /**
Michael W. Zimmerman
Registration No. 57,993
Attorney for the Applicants

**November 15, 2011**